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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,108	06/20/2003	Kyle D. Harding	17853-046	7812

7590 10/05/2004
Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111

EXAMINER

TREMBLAY, MARK STEPHEN

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/600,108

Applicant(s)

HARDING ET AL.

Examiner

Mark Tremblay

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6-17, and 19 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication #2002/0042774 to Ortiz et al. ("Ortiz" hereinafter). Ortiz discloses A shopping system for scanning codes related to products and for retrieving data associated with the codes, the shopping system comprising:

a battery-operated personal code scanner 40 having a size and a shape such that the scanner is hand-held, the scanner including a light source 59 for projecting a light from the scanner to the code to be scanned, an optical sensor 59 for detecting light reflected from the code and for generating an electrical signal in response to detecting the reflected light, a microcontroller 10 for decoding the electrical signal to decoded data, memory 24, 22, 20 operatively coupled to the microcontroller for storing the decoded data and at least one identification code 433 to identify a user of the scanner, the identification code being unique to the scanner and a user, and an infrared emitter 16 operatively coupled to the microcontroller for transferring the identification code and the decoded data from the scanner by infrared communication,

at least a first shopping kiosk 138 for receiving the decoded data from the scanner including a processor and an infrared receiver, the infrared receiver being configured by an application program used by the processor to enable the infrared receiver to receive the identification code by infrared communication and, upon the processor recognizing the identification code, to establish a communications data link

with the scanner such that the infrared emitter can transfer the decoded code to the infrared receiver; and

at least a first host computer 154 operatively coupled to the first shopping kiosk, the first host computer and the first shopping kiosk being configured to enable a two-way communications link between the first host computer and the first shopping kiosk, the first host computer including a processor and memory, the processor being configured with one or more application programs to receive the decoded data from the first shopping kiosk through the communications link and to identify information related to the decoded data, wherein, in response to identifying the information related to the decoded data, the processor selects and retrieves stored information from the memory and transmits the retrieved information to the first shopping kiosk through the communications link, and the first shopping kiosk provides the retrieved information in a useable format (see e.g. figure 33).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 5, 18 and 20-26 are rejected under 35 U.S.C. § 103 as being unpatentable over Ortiz Ortiz discloses A shopping system for scanning codes related to products as described above, but does not directly teach a printer, and other features of the claimed invention.

Re claim 5, Official notice is taken that a printer is old and well known in the art for displaying data. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a printer with Ortiz in order to provide non-volatile, portable records such as receipts for the user. The advantages of "hard-copy" are well understood in the art.

Re claims 18 and 21-26, the claims recite well known features of bar code readers. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide Ortiz with the well known features of bar code readers, because Ortiz provides a general description of a bar code reader, and describes such as well known in the art.


Re claim 20, key fobs are well known in the art as a subclass of hand-held device. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to make the hand held device of Ortiz into known subclasses of hand-held devices, because Ortiz describes the device generally, but does not specify a particular subclass of hand-held device to which it must belong.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U. S. Patent Publication #2002/0104887 is cited for showing another hand held terminal with optical scanning and IR communication (col. 5).

Voice

Inquiries for the Examiner should be directed to Mark Tremblay at (571) 272-2408. The Examiner's regular office hours are 10:30 am to 7:00 pm EST Monday to Friday. Voice mail is available. If Applicant has trouble contacting the Examiner, the Supervisory Patent Examiner, Michael Lee, can be reached on (571) 272-2398. Technical questions and comments concerning PTO procedures may be directed to the Patent Assistance Center hotline at 1-800-786-9199 or (703) 308-4357.


MARK TREMBLAY
PRIMARY EXAMINER

October 1, 2004